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IMMEDIATE RELEASE

IN THE SUPREME COURT OF THE STATE OF IDAHO Docket No. 29665

UNION PACIFIC LAND RESOURCES CORP.,	Boise, May 2004 Term
) 2004 Opinion No. 102
Plaintiff-Respondent,) Filed: July 30, 2004
v.) Frederick C. Lyon, Clerk
SHOSHONE COUNTY ASSESSOR and	
SHOSHONE COUNTY BOARD OF)
COUNTY COMMISSIONERS,)
Defendants-Appellants,))

Appeal from the District Court of the First Judicial District, State of Idaho, Shoshone County. Hon. Fred M. Gibler, District Judge.

District court's decision reversing Shoshone County assessor's decision to reclassify Union Pacific's operating property, <u>affirmed.</u>

Bosch, Daw & Ballard, Chtd., Boise, for appellants. C.A. Daw argued.

Hawley, Troxell, Ennis & Hawley, Boise, for respondent. Richard G. Smith argued.

In a unanimous decision written by Justice Roger S. Burdick, the Idaho Supreme Court ruled the Idaho Tax Commission and not county assessor must classify railroad property as operating or non-operating for purposes of subsequent assessment by the county assessor. The Idaho Supreme Court also awarded attorney fees to Union Pacific Land Resources pursuant to I.C. § 12-117 because the assessor wrongfully reclassified Union Pacific Land Resource's property and as a result knowingly double taxed Union Pacific Land Resource's property.

In July 2000, the Tax Commission staff issued a notice of valuation for Union Pacific's operating property located in Shoshone County. On July 28, 2000, the Shoshone County Assessor objected to the assessment of Union Pacific's property on the

basis it was undervalued. On August 25, 2000, the trial court sitting as the State Board of Equalization denied the assessors objection. That decision was not appealed.

In November 2000, the assessor unilaterally changed the classification of some of Union Pacific's operating property to non-operating and again assessed the property. The changed property was thus double taxed – once by the Tax Commission as operating property and again by the assessor as non-operating property.

The Idaho Supreme Court found the Tax Commission and not the Shoshone County Assessor has the ultimate authority to classify Union Pacific's property as operating or non-operating. The assessor could have filed a Writ of Review with the Idaho Supreme Court to review that decision, but did not. Rather than use court proceedings, the Shoshone County Assessor illegally reclassified the property and taxed it again.

Because of the unilateral reclassification and unconstitutional double taxation, the Idaho Supreme Court awarded attorney fees against Shoshone County pursuant to I.C. § 12-117.